

## REMARKS

Applicant expresses appreciation to Examiner Najjar for the time he spent in a personal interview with Applicant's attorney on May 2, 2001. After discussing WO 95/09387 to Weele et al. with Applicant's attorney, Examiner Najjar stated that he would evaluate amendments to the claims upon further review of Weele.

By this paper Applicant has amended Claims 1, 13, 22, 25, and 34. Applicant has neither added nor canceled any claims. Accordingly Claims 1-25 and 27-35 remain pending for examination.

The specific changes to the amended claims are shown on a separate page attached hereto and entitled MARKED UP VERSION OF CLAIMS, which follows the signature page of the Amendment. On this page, the insertions are underlined while the **[deletions are bold, in brackets]**.

### I. Discussion of Rejection of Claims 1-25 and 27-35 Under Obviousness-type Double Patenting

In paragraph 3 of the Office Action, the Examiner *provisionally* rejected Claims 1-38 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-38 of copending Application No. 08/943,356. The Examiner noted that a timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome the provisional rejection provided that the conflicting application or patent is shown to be commonly owned with this application. In response, Applicant is willing to submit a terminal disclaimer, in compliance with 37 C.F.R. 1.321(c), with respect to copending Application No. 08/943,356, after the provisional rejection becomes final and the pending claims are otherwise considered allowable.

### II. Discussion of Ownership of the Invention for Purposes of 35 U.S.C. § 102(f), (g) Prior Art

In paragraph 5 of the Office Action, citing 37 C.F.R. § 1.56, the Examiner noted that since the application names joint inventors Applicant must point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made. in

order for the Examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(f) or (g) prior art.

In response, Applicant declares that Applicant has faithfully complied with the requirements of 37 C.F.R. § 1.56, and that the subject matter of all the claims of the present patent application were commonly owned at the time any inventions covered therein were made.

III. Discussion of Rejection of Claims 1-5, 7-11, 13-20, 22-29, 34 and 35 under 35 U.S.C. 103(a)

The Examiner rejected Claims 1-5, 7-11, 13-20, 22-29, 34 and 35 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,751,933 to Dev et al in view of WO 95/09387 to Weele et al. Applicant respectfully traverses this ground of rejection.

To establish a prima facie case of obviousness, the Examiner must at least show that the prior art references when combined teach or suggest all the claim limitations. M.P.E.P. § 2142. Applicant respectfully submits, however, that neither Dev nor Weele, singly or in combination, teach or suggest a manager system for monitoring alerts comprising an “alert module configured to allow a user to selectively disable or enable *a future* display of one or more alert notifications related to said alerts . . . by selecting or deselecting a corresponding alert type in [a] graphic display,” as recited in amended Claim 1 (emphasis added).

With regard to Claim 1, in paragraph 6 of the Office Action, the Examiner states that Dev teaches the invention substantially as claimed, including that “the user may use a filtering criteria to enable or disable the display of events such as unspecifying a model type event display.” Although the Examiner concedes that “Dev fails to teach the claimed limitation wherein the user enables or disables automatic display of alerts by selecting or deselecting a corresponding alert type,” the Examiner takes the position that Weele teaches that claimed limitation. The Examiner support this conclusion by pointing out that Weele teaches a management console having a display [28], the display [28] having an unacknowledged alert window [46], and an active alarms window [48] which lists all acknowledged and unacknowledged alarms. Further, the Examiner adds, Weele teaches that the operator may manipulate the interface screen display so that alarms in unacknowledged alarms window [46] are not displayed there and are moved automatically to active alarms window [48], “which can be obfuscated or iconized and rendered undisplayable.”

Applicant respectfully submits, however, that Weele teaches that the unacknowledged alarms window [46] “cannot be moved, iconized, or closed.” Weele at page 17, line 33. Although the unacknowledged alarms window [46] “can be covered by another window,” Weele states that this is possible only “if there are no unacknowledged alarms present.” Id. at page 17, lines 34-35. In fact, “the information listed in the unacknowledged alarm window [46] will remain fully visible whenever there are any unacknowledged alarms.” Id. at page 49, lines 18-19. Moreover, Weele states, “no filtering . . . is allowed in the Unacknowledged Alarm Overview Window.” Id. at page 49, line 23. It should now be clear that, because no filtering of unacknowledged alarms is allowed, in Weele’s system an alarm will necessarily be displayed in the unacknowledged alarms window [46] every time that an event issues the alarm. Furthermore, the display of the alarm will be present until the operator of the system affirmatively acts to acknowledge the alarm.

In light of the above discussion, Applicant respectfully submits that Weele teaches away from, rather than teach or suggest, a manager system for monitoring alerts comprising a “module configured to allow a user to *selectively disable or enable a future display of one or more alert notifications . . . by selecting or deselecting a corresponding alert type*,” as recited by amended Claim 1 (emphasis added). Applicant submits that Weele’s system appears to be designed to ensure that each and every alarm that is issued by the system is displayed to the operator, without the operator having a choice to prevent any *future* display of any one alarm. In contrast, Applicant’s system is in fact designed to allow the user to exercise such a choice (see Applicant’s Specification at pages 5-6, and 22).

To establish a prima facie case of obviousness, the Examiner must also show some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. § 2142. Applicant respectfully submits that neither Dev nor Weele, singly or in combination, provides a suggestion or motivation to combine the references to produce a manager system for monitoring alerts comprising an “alert module configured to allow a user to selectively disable or enable *a future* display of one or more alert notifications related to said alerts . . . by selecting or deselecting a corresponding alert type in [a] graphic display,” as recited in amended Claim 1 (emphasis added).

In paragraph 6 of the Office Action, the Examiner takes the position that one of ordinary skill in the art would have been motivated to modify Dev, in view of Weele, in order “to prevent sensory overload on the human operator responsible for control of the management console.” Applicant respectfully submits, however, that no such motivation can be found in the prior art of record. Nowhere do Dev or Weele provide a motivation for allowing “a user to selectively disable or enable a *future* display of one or more alert notifications . . . by selecting or deselecting a corresponding alert type,” as recited in amended Claim 1 (emphasis added), in order to “prevent sensory overload on the human operator.” In fact, as previously discussed above, Weele appears to be more concerned with ensuring that the operator acknowledges every single alarm issued by the system than with preventing sensory overload of the operator. Moreover, Applicant is unable to identify any passage in Dev that would provide a basis for the motivation suggested by the Examiner. In order to adequately respond to the Examiner’s concerns, Applicant respectfully requests that the particular part of the references relied upon by the Examiner be designated as nearly as practicable. M.P.E.P. § 707(c)(2).

Applicant notes that the teaching or suggestion to make the claimed combination must be found in the prior art, and not based on Applicant’s disclosure. M.P.E.P. § 2142, citing *In re Vaeck*, 947 F.2d 488. Applicant respectfully submits that the Examiner may have improperly relied on Applicant’s specification to find a motivation to combine the references of record. In the *Detailed Description of the Invention* section, Applicant explains that alarms may be have different kinds of priority, such as high or low. In the case of lower priority alarms, for example, a network administrator “may be able to postpone investigation or repair for a more convenient time,” hence, Applicant’s invention allows the network administrator to selectively “enable or disable one or more future alarm notifications.” Specification at pages 5-6. Moreover, the specification points out that “[o]ne advantage of an embodiment of the present invention is that it avoids unwanted disruptions.” *Id.* at page 21. Since the “network administrator may not want to be interrupted in his or her present task every time” an alarm is issued by the system, the invention “allows a user to select the alerts he or she personally believes are important.” *Id.* It is apparent, then, that Applicant’s specification provides that at least one advantage of Applicant’s invention is that it allows prevention of “sensory overload on the human operator responsible for control of the management console.” Consequently, Applicant respectfully requests that the Examiner reconsider this ground of rejection.

Because neither Dev nor Weele, singly or in combination, teach or suggest all the claimed limitations of amended Claim 1, and because the prior art of record does not provide a motivation or suggestion to combine the references in order to produce the subject matter of amended Claim 1, Applicant respectfully submits that Claim 1 is patentable over the references of record. Therefore, Applicant respectfully requests that the rejection of Claim 1 be withdrawn and the claim be allowed.

The Examiner rejected Claims 13, 22, 25, 34, and 35 on substantially the same grounds for rejection Claim 1. Applicant has amended Claims 13, 22, 25, and 34 to clarify that the system recited in each of those claims allows for selectively disabling or enabling *a future display* of an alert (or multiple alerts) corresponding to an alert type. As already discussed, Applicant respectfully submits that neither Dev nor Weele, singly or in combination, teach or suggest this feature of the subject claims. Furthermore, Applicant directs the Examiner's attention to Claim 35, which recites a user interface configured to allow a user to selectively disable or enable one or more alert notifications for *future display* to the user. Hence, Applicant respectfully submits, Claim 35 is patentable without any further amendment for the reasons stated above with regard to Claim 1.

Additionally, Claims 2-12, 14-21, 23, 24, and 26-33 each depends either directly or indirectly from Claims 1, 13, 22, or 25 respectively. Consequently, pursuant to 35 U.S.C. § 112, ¶ 4, Claims 2-12, 14-21, 23, 24, and 26-33 each incorporate by reference all the limitations of the claims from which they respectively depend. Therefore, Applicant respectfully submits that Claims 2-12, 14-21, 23, 24, and 26-33 are also patentable.

### CONCLUSION

The Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes, the reasons therefore, and arguments in support of the patentability of the pending claim set are presented above. In light of the above amendments and remarks, reconsideration

and withdrawal of the outstanding rejections is specifically requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

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